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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,722	11/30/2000	Osamu Hasegawa	14105	1910
23389	7590	07/12/2005	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC			ZHENG, EVA Y	
400 GARDEN CITY PLAZA			ART UNIT	
SUITE 300			PAPER NUMBER	
GARDEN CITY, NY 11530			2634	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/726,722

Applicant(s)

HASEGAWA, OSAMU

Examiner

Eva Yi Zheng

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6-11 and 14-16 is/are rejected.
- 7) ☒ Claim(s) 2-5,12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments, filed on April 14, 2005, with respect to the rejection(s) of claim(s) 1-16 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Matsuda et al. (US 6,108,532).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 6-11, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda et al. (US 6,108,532).

a) Regarding claim 1, Matsuda et al. disclose a mobile telephone apparatus operable in a CDMA (code division multiple access) communications system, comprising:

a desreading circuit for desreading received spectrum-spread data (20 in Fig.

1)

a frequency offset detector for detecting a frequency offset (inherent as 21 in Fig.

1; Col 6, L16-19)

a movement determiner for determining whether the mobile telephone is moving at speeds higher than a predetermined speed, based on frequency offsets received from the frequency offset detector (23 in Fig. 1; Col 6, L 17-22); and

a control means for switching an operation mode between a drive mode and a normal mode depending on whether the mobile telephone apparatus is moving at speeds higher than the predetermined speed (100 in Fig. 1; and 3b, 3c and 3d in Fig. 3).

Although Matsuda et al. doesn't specifically disclose spreading data of a plurality of branches to produce despread data each corresponding a plurality of fingers and frequency offset for each fingers, such limitation are merely a matter of design choice. Matsuda et al. teach a radio communication detects signal strength, detects fading pitch and control moving speed. The TDMA section 13 in Fig. 1 divides the signal into a plurality of signals for each time slot constitute as a plurality of fingers. The limitations in claim 1 do not define a patentably distinct invention over that in Matsuda et al. since both the invention as a whole and Matsuda et al. are directed to receive signal and speed control. Whether the frequency offset detection is at each of the fingers or a received signal as a whole presents no new or unexpected results, so long as the signal strength and moving speed is successfully evacuated. Therefore, to have frequency offset detector for each of the fingers in Matsuda et al. would have been a matter of obvious design choice to one of ordinary skill in art.

b) Claim 11 is rejected under similar reasons as claim 1.

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c) Regarding claim 6, Matsuda et al. disclose the mobile telephone apparatus according to claim 1, further comprising:

a display controller (24 in Fig. 1) for controlling a display device when the mobile telephone apparatus is moving at speeds higher than the predetermined speed such that a message indicating that the mobile telephone apparatus is moving at speeds higher than the predetermined speed is displayed on the display device.

d) Regarding claim 7, Matsuda et al. disclose the mobile telephone apparatus according to claim 1, further

a voice message generator (27a in Fig. 1) for generating a predetermined voice message when an incoming call occurs during the drive mode; and

a communication controller (100 in Fig. 1) for transmitting the predetermined voice message to a caller.

e) Regarding claim 8, Matsuda et al. disclose the mobile telephone apparatus according to claim 6, further

a voice message generator (27a in Fig. 1) for generating a predetermined voice message when an incoming call occurs during the drive mode; and

a communication controller (100 in Fig. 1) for transmitting the predetermined voice message to a caller.

f) Regarding claim 9, Matsuda et al. disclose the mobile telephone apparatus according to claim 1, further comprising:

a communication controller (100 in Fig. 1) for transmitting a network system a drive mode message indicating that the mobile telephone apparatus is moving at speeds higher than the predetermined speed, when the operation mode has been changed to the drive mode,

wherein the network system has a voice message system (27 in Fig. 1) in which, when an incoming call occurs after having received the drive-mode message from the mobile telephone apparatus, the voice message system transmits a predetermined voice message to a caller.

g) Regarding claim 10, Matsuda et al. disclose the mobile telephone apparatus according to claim 6, further comprising:

a communication controller (100 in Fig. 1) for transmitting a network system a drive mode message indicating that the mobile telephone apparatus is moving at speeds higher than the predetermined speed, when the operation mode has been changed to the drive mode,

wherein the network system has a voice message system (27 in Fig. 1) in which, when an incoming call occurs after having received the drive-mode message from the mobile telephone apparatus, the voice message system transmits a predetermined voice message to a caller.

h) Regarding claim 14, Matsuda et al. disclose the method according to claim 11, further comprising a step of:

displaying a message when the mobile telephone is moving at speeds higher than the predetermined speed (24 in Fig. 1).

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- i) Regarding to claim 15, Matsuda et al. disclose the method according to claim 1, further comprising steps of:

generating a predetermined voice message (27a in Fig. 1) when an incoming call occurs during the drive mode; and

transmitting the predetermined voice message to a caller(100 in Fig. 1).

- j) Regarding claim 16, Matsuda et al. disclose the mobile telephone apparatus according to claim 11, further comprising steps of:

transmitting (100 in Fig. 1) to a network system a drive mode message indicating that the mobile telephone apparatus is moving at speeds higher than the predetermined speed, when the operation mode has been changed to the drive mode,

wherein the network system has a voice message system (27 in Fig. 1) in which, when an incoming call occurs after having received the drive-mode message from the mobile telephone apparatus, the voice message system transmits a predetermined voice message to a caller.

***Allowable Subject Matter***

4. Claims 2-5 and 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

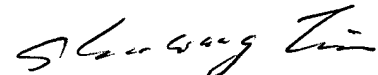
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eva Y Zheng whose telephone number is 571 272-3049. The examiner can normally be reached on M-F, 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on 571 272-3056. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eva Yi Zheng  
Examiner  
Art Unit 2634

June 27, 2005



**SHUWANG LIU  
PRIMARY EXAMINER**